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**Testimony of Sheldon Toubman before the  
Government Administration and Elections Committee  
in Support of S.B. 361 (An Act Revising the State Code of Ethics)**

March 7, 2016

Good afternoon, Senator Cassano, Rep. Jutila and members of the Government Administration and Elections Committee. I am Sheldon Toubman, and I am a staff attorney with New Haven Legal Assistance Association. Mostly I work on health care access issues on behalf of low income Medicaid clients, which is what brings me to testify in support of SB 361.

Section 2 of S.B. 361 would strengthen the current statute specifying which individuals are subject to the State Code of Ethics for Public Officials. That code provides essential protections against individuals making decisions for the state which are infected with conflicts of interest. This bill will close an unfortunate loophole which has allowed individuals appointed to various governmental and quasi-governmental councils and task forces, who meet all of the other requirements for being bound by the code, except having been appointed by the Governor, to avoid being subject to these critical protections against conflicts of interest.

My interest in this subject derives from my advocacy for Medicaid enrollees in the context of the planning by the Project Management Office concerning the State Innovation Model (SIM), an initiative to radically transform the delivery of health care and particularly the payment methodology for health care, so that providers have a direct financial interest in lowering the costs of their own patients' health care. Particularly in the case of Medicaid enrollees, such incentives could result in restrictions on access to appropriate health care, as has occurred with similar payment reforms.

Without opining here whether or not this is a good idea for 80% of all Connecticut residents, as the Project Management Office of SIM intends, clearly big decisions are being made by this office and the SIM Steering Committee which guides it about state residents' health care. The SIM steering committee is involved in decisions about how \$45 million in federal grant money for the initiative should be spent. Yet, all members of this Committee, many of whom work for entities which stand to profit from contracts under this initiative, are appointed by the Lt. Governor. And, under existing law, all of these appointees are exempt from being subject to the Ethics Code because they were not appointed by the Governor instead.

Already, conflicts of interest in the approval of SIM standards, upon which funding for private entities is contingent, have occurred. For example, two SIM Steering Committee members who are employed by large health systems have successfully lobbied another SIM committee to lower standards so as to allow them to apply for SIM funding, which in fact was then provided.

The SIM Steering Committee and the Consumer Advisory Board and other SIM councils under it should be subject to the State Code of Ethics. Although it was only an advisory opinion because it concluded that SIM appointees are not subject to the Code since they are appointed by the Lt. Governor, the State of Connecticut Office of State Ethics stated in its opinion last year:

“[B]ased on the facts presented, it appears that members of the Steering Committee, its subcommittees and the CAB *exercise considerable authority* in approving the design and development of various programs as they relate to healthcare reform and innovation in Connecticut, including funding.”

Declaratory Ruling No. 2015-B (May 21, 2015)(emphasis added)

Thus, it appears that these SIM committees are not mere “advisory” committees and would be subject to the Ethics Code once the impediment of the current statutory loophole is removed. But this committee need not be concerned with passing judgement on that issue and can leave it to the Ethics Office to resolve any remaining claim of SIM committees being “advisory” only, should they persist on that claim. All that is asked at this juncture is that you pass favorably on SB 361 so that individuals on state committees will be held to the appropriately high standards of the well-tested Ethics Code, if they meet all other requirements for such application, regardless of the constitutional officer who appointed them.

The Code has been very successfully used for years to avoid problematic conflicts of interest on councils and task forces that can harm the public interest. With the Code in place, state agencies can avoid the appearance of a conflict or an actual conflict, undermining public confidence in the integrity of state decision-making. All this bill does is remove an unnecessary loophole avoiding this successful application.

Thank you for passing favorably on SB 361.